

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

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)	
UNITED STATES OF AMERICA)	Criminal No. 2:04cr
)	
v.)	18 U.S.C. § 1957
)	Monetary Transaction
ROY F. OVERTON, JR.	)	in Criminally Derived Property
	)	(Counts 1 - 9)
)	
	)	18 U.S.C. § 1623
	)	False Declaration Before Grand
	)	Jury
	)	(Count 10)
)	
	)	18 U.S.C. § 1503
	)	Obstruction of Justice
	)	(Count 11)
)	
	)	18 U.S.C. § 2232(a) and 2
	)	Removal of Assets to Prevent
	)	Seizure
	)	(Count 12)
)	
	)	18 U.S.C. § 982
	)	Criminal Forfeiture

INDICTMENT

June 2004 Term - at Norfolk, Virginia

COUNT ONE

THE GRAND JURY CHARGES THAT:

On or about February 10, 2003, in the Eastern District of Virginia, defendant, ROY F. OVERTON, JR., did knowingly engage and attempt to engage in a monetary transaction, affecting interstate commerce, in criminally derived property of a value greater than \$10,000.00, that is the transfer, payment and delivery of funds to Bank of America, Virginia, a financial institution, account number

004126395527, in the amount of \$25,000.00, check number 2034 drawn on Mid-State Bank and Trust, Goleta, California, such property having been derived from one or more specified unlawful activities, that is, Mail Fraud (Title 18, United States Code, Section 1341), Wire Fraud (Title 18, United States Code, Section 1343), and Interstate Transportation of Stolen Moneys (Title 18, United States Code, Section 2314) in violation of federal law.

(In violation of Title 18, United States Code, Section 1957, 2 and 3237.)

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

On or about February 25, 2003, in the Eastern District of Virginia, defendant, ROY F. OVERTON, JR., did knowingly engage and attempt to engage in a monetary transaction, affecting interstate commerce, in criminally derived property of a value greater than \$10,000.00, that is, the transfer, payment and delivery of funds through a financial institution, in the amount of a \$20,000.00 check drawn on Mid-State Bank and Trust, Goleta, California, account number 0419424111, check number 2043, such property having been derived from one or more specified unlawful activities, that is, Mail Fraud (Title 18, United States Code, Section 1341), Wire Fraud (Title 18, United States Code, Section 1343), and Interstate Transportation of Stolen Moneys (Title 18, United States Code, Section 2314) in violation of federal law.

(In violation of Title 18, United States Code, Section 1957, 2 and 3237.)

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

On or about August 1, 2003, in the Eastern District of Virginia, defendant, ROY F. OVERTON, JR., did knowingly engage and attempt to engage in a monetary transaction, affecting interstate commerce, in criminally derived property of a value greater than \$10,000.00, that is, the transfer, payment and delivery of funds through a financial institution, in the amount of a \$15,220.42 check drawn on Bank of America account number 004126395527, check number 1076, such property having been derived from one or more specified unlawful activities, that is, Mail Fraud (Title 18, United States Code, Section 1341), Wire Fraud (Title 18, United States Code, Section 1343), and Interstate Transportation of Stolen Moneys (Title 18, United States Code, Section 2314) in violation of federal law.

(In violation of Title 18, United States Code, Section 1957 and 2.)

COUNT FOUR

THE GRAND JURY FURTHER CHARGES THAT:

On or about August 14, 2003, in the Eastern District of Virginia, defendant, ROY F. OVERTON, JR., did knowingly engage and attempt to engage in a monetary transaction, affecting interstate commerce, in criminally derived property of a value greater than \$10,000.00, that is, the transfer, payment and delivery of funds through a financial institution, in the amount of a \$60,000.00 check drawn on Bank of America account number 004126395527, check number 1078, such property having been derived from one or more specified unlawful activities, that is, Mail Fraud (Title 18, United States Code, Section 1341), Wire Fraud (Title 18, United States Code, Section 1343), and Interstate Transportation of Stolen Moneys (Title 18, United States Code, Section 2314) in violation of federal law.

(In violation of Title 18, United States Code, Section 1957 and 2.)

COUNT FIVE

THE GRAND JURY FURTHER CHARGES THAT:

On or about September 17, 2003, in the Eastern District of Virginia, defendant, ROY F. OVERTON, JR., did knowingly engage and attempt to engage in a monetary transaction, affecting interstate commerce, in criminally derived property of a value greater than \$10,000.00, that is, the transfer, payment and delivery of funds through a financial institution, in the amount of \$708,757.46 drawn on a Bank of America cashiers check number 2047050, such property having been derived from one or more specified unlawful activities, that is, Mail Fraud (Title 18, United States Code, Section 1341), Wire Fraud (Title 18, United States Code, Section 1343), and Interstate Transportation of Stolen Moneys (Title 18, United States Code, Section 2314) in violation of federal law.

(In violation of Title 18, United States Code, Section 1957 and 2.)

COUNT SIX

THE GRAND JURY FURTHER CHARGES THAT:

On or about October 13, 2003, in the Eastern District of Virginia, defendant, ROY F. OVERTON, JR., did knowingly engage and attempt to engage in a monetary transaction, affecting interstate commerce, in criminally derived property of a value greater than \$10,000.00, that is, the transfer, payment and delivery of funds through a financial institution, in the amount of a \$21,942.00 check drawn on Bank of America account number 004126395527, check number 1109, such property having been derived from one or more specified unlawful activities, that is, Mail Fraud (Title 18, United States Code, Section 1341), Wire Fraud (Title 18, United States Code, Section 1343), and Interstate Transportation of Stolen Moneys (Title 18, United States Code, Section 2314) in violation of federal law.

(In violation of Title 18, United States Code, Section 1957 and 2.)

COUNT SEVEN

THE GRAND JURY FURTHER CHARGES THAT:

On or about October 13, 2003, in the Eastern District of Virginia, defendant, ROY F. OVERTON, JR., did knowingly engage and attempt to engage in a monetary transaction, affecting interstate commerce, in criminally derived property of a value greater than \$10,000.00, that is, the transfer, payment and delivery of funds through a financial institution, in the amount of a \$259,762.00 check drawn on Bank of America account number 004126395527, check number 1111, such property having been derived from one or more specified unlawful activities, that is, Mail Fraud (Title 18, United States Code, Section 1341), Wire Fraud (Title 18, United States Code, Section 1343), and Interstate Transportation of Stolen Moneys (Title 18, United States Code, Section 2314) in violation of federal law.

(In violation of Title 18, United States Code, Section 1957 and 2.)

COUNT EIGHT

THE GRAND JURY FURTHER CHARGES THAT:

On or about January 2, 2004, in the Eastern District of Virginia, defendant, ROY F. OVERTON, JR., did knowingly engage and attempt to engage in a monetary transaction, affecting interstate commerce, in criminally derived property of a value greater than \$10,000.00, that is, the transfer, payment and delivery of funds through a financial institution, in the amount of a \$271,000.00 check drawn on Bank of America account number 004126395527, check number 1178, such property having been derived from one or more specified unlawful activities, that is, Mail Fraud (Title 18, United States Code, Section 1341), Wire Fraud (Title 18, United States Code, Section 1343), and Interstate Transportation of Stolen Moneys (Title 18, United States Code, Section 2314) in violation of federal law.

(In violation of Title 18, United States Code, Section 1957 and 2.)

COUNT NINE

THE GRAND JURY FURTHER CHARGES THAT:

On or about January 20, 2004, in the Eastern District of Virginia and elsewhere, ROY F. OVERTON, JR. did knowingly engage and attempt to engage in a monetary transaction, affecting interstate commerce, in criminally derived property of a value greater than \$10,000.00, that is, the transfer, payment and delivery of funds through a financial institution, in the amount of \$150,000.00 drawn on Mid-State Bank and Trust, Goleta, California, account number 0419424111, check number 2089, deposited into Bank of America, account number 004126395527, such property having been derived from one or more specified unlawful activities, that is, Mail Fraud (Title 18, United States Code, Section 1341), Wire Fraud (Title 18, United States Code, Section 1343), and Interstate Transportation of Stolen Moneys (Title 18, United States Code, Section 2314) in violation of federal law.

(In violation of Title 18, United States Code, Section 1957, 2 and 3237.)

COUNT TEN

THE GRAND JURY FURTHER CHARGES THAT:

On or about September 26, 2002, at Norfolk, Virginia, in the Eastern District of Virginia, ROY F. OVERTON, JR., while under oath as a witness in a grand jury proceeding before a Grand Jury empaneled by the United States District Court for the Eastern District of Virginia, Norfolk Division, unlawfully and knowingly did make a false material declaration, that is to say:

1. At the time and place aforesaid, the grand jury was engaged in and conducting an investigation into alleged violations of federal law including but not limited to Mail Fraud (Title 18, United States Code, Section 1341), Wire Fraud (Title 18, United States Code, Section 1343), Interstate Transportation of Stolen Moneys (Title 18, United States Code, Section 2314), Conspiracy (Title 18, United States Code, Section 371), and Money Laundering offenses (Title 18, United States Code, Sections 1956 and 1957). The targets of the Grand Jury investigation were Howard Welsh and Lee Hope Thrasher.

2. It was a part of and material to the Grand Jury investigation to determine the location of certain funds obtained by Howard Welsh and Lee Hope Thrasher which had been obtained by them in execution of a fraudulent investment scheme which was conducted in violation of federal law. It was believed that over \$30 million in funds had been fraudulently obtained by Howard Welsh

and Lee Hope Thrasher in the operation of this scheme from various investors and victims of the fraud.

3. The Grand Jury investigation determined that these funds had been transferred and transmitted to various individuals both within and outside the United States. Specifically, it was determined that, ROY F. OVERTON, JR., had received approximately \$2,500,000.00 of these funds which were the proceeds of Mail and Wire Fraud and Stolen Moneys obtained in violation of federal law.

4. It was material to the Grand Jury investigation to determine the location of these funds and whether they had been transferred to any other individuals or were in the possession and subject to the custody and control of ROY F. OVERTON, JR. It was further material to determine the location of the funds since they were subject to forfeiture under United States law and could eventually be remitted as restitution to the victims of the fraudulent investment scheme. It was also further material to the Grand Jury investigation to determine whether ROY F. OVERTON, JR. or any other individuals were involved in criminal activity with respect to the possession, transfer or concealment of these funds.

5. During the questioning of ROY F. OVERTON, JR. it was stated by him that he had written a check to HMS Financial for \$1 million which was part of the proceeds of the criminally derived funds and communicated to a "Col. Fyn" in Canada. It was material to the Grand Jury investigation whether ROY F. OVERTON, JR. had

received any portion of these funds back from HMS Financial or any other individual or entity or otherwise tranfered or disposed of the funds.

6. At the time and place aforesaid, ROY F. OVERTON, JR., while under oath did knowingly declare before said Grand Jury with respect to the aforesaid material matter as follows.

Q. Did you wire any funds to him to invest?

A. Yes, I did. After about three months time, yes, I did.

Q. How much did you send there to Canada?

A. \$1,000,000.00.

Q. All right. What were you supposed to - - Is this under the name of HMS Financial?

A. Yes sir. That is the name of the company in Canada.

Q. Now, what were you to get back from this \$1,000,000.00?

A. That million dollars was to stay into a trading program and - - for one year. And at the end of the year, that is when the payout would be.

Q. How much was the payout to be?

A. \$64,000,000.00.

Q. That is a pretty good rate of return.

A. Yes, sir. What it is, it's 50 percent a month.

Q. All right.

A. It's compounded every two months. That is how that works out.

Q. How much have you gotten back?

A. I haven't got anything out of that back, because it's not due to come out until after the 15th of October.

7. The aforesaid underlined testimony of ROY F. OVERTON, JR., as he then and there well knew was false and fraudulent in that he had in fact received funds back on behalf of HMS Financial which had been wired into his bank account in the following amounts and on the dates listed below.

	<u>AMOUNT</u>	<u>DATE</u>	<u>LOCATION</u>
a.	\$ 90,000.00	November 30, 2001	RAE Enterprises First Virginia Bank Acct. number 13369148
b.	\$ 90,000.00	February 27, 2002	RAE Enterprises First Virginia Bank Acct. number 13369148
c.	\$135,000.00	March 1, 2002	RAE Enterprises First Virginia Bank Acct. number 13369148
d.	\$ 75,000.00	March 21, 2002	RAE Enterprises First Virginia Bank Acct. number 13369148
e.	\$ 75,000.00	April 15, 2002	RAE Enterprises First Virginia Bank Acct. number 13369148
f.	\$ 54,166.50	May 1, 2002	RAE Enterprises First Virginia Bank Acct. number 13369148

g.	\$149,985.00	May 29, 2002	RAE Enterprises First Virginia Bank Acct. number 13369148
h.	<u>\$149,985.00</u>	May 28, 2002	RAE Enterprises First Virginia Bank Acct. number 13369148
	<u>\$819,136.50</u>		

(In violation of Title 18, United States Code, Section 1623.)

COUNT ELEVEN

THE GRAND JURY FURTHER CHARGES THAT:

That on or about September 26, 2002, at Norfolk, Virginia, in the Eastern District of Virginia, ROY F. OVERTON, JR., unlawfully, willfully, knowingly and corruptly did influence, obstruct, impede and corruptly endeavor to influence, obstruct and impede the due administration of justice by knowingly and willfully testifying falsely and evasively before a Grand Jury of the United States District Court Eastern District of Virginia, Norfolk Division, that funds he had received from Howard Welsh and ultimately deposited into an AG Edwards account that he later transferred most of the funds from the AG Edwards account back into his RAE Enterprise's account in the amount of approximately \$160,000.00 when in truth and in fact, as he then well knew, the majority of the funds were transferred from the AG Edwards account to HMS Financial in Canada.

(In violation of Title 18, United States Code, Section 1503.)

COUNT TWELVE

THE GRAND JURY FURTHER CHARGES THAT:

From in or about December 23, 2002 and continuing through in or about May 24, 2004, in the Eastern District of Virginia and elsewhere, ROY F. OVERTON, JR., knowingly and unlawfully either before, during, or after any search or seizure of property by any person authorized to make such search or seizure, destroyed, damaged, wasted, disposed of, transferred, or otherwise took any action, or attempted to destroy, damage, waste, dispose of, transfer, or otherwise take any action, for the purpose of impairing the Government's lawful authority to take such property into its custody or control or to continue holding such property under its lawful custody and control, in violation of Title 18, United States Code, Section 2232(a) to-wit property consisting of approximately two million one hundred twenty-two thousand six hundred dollars (\$2,122,600.00).

(In violation of Title 18, United States Code, Sections 2232(a) and 2.)

CRIMINAL FORFEITURE

_____THE GRAND JURY FURTHER CHARGES THAT:

A. The defendant ROY F. OVERTON, JR., if convicted of any one of the violations alleged in Counts One through Nine, and Count Eleven, of this criminal complaint shall forfeit to the United States:

1. Any property, real or personal, involved in a transaction or attempted transaction; and

2. Any property, real or personal, which constitutes or is derived from proceeds traceable to the commission of such violations.

(All in violation of Title 18, United States Code, Sections 981(a)(1)(A) and (C) and Title 28, United States Code, Section 2461(c)).

3. Any property, real or personal, involved in such offense, or any property traceable to such property.

(All in violation of Title 18, United States Code, Sections 982(a)(1)).

B. If any property that is subject to forfeiture above, (a) cannot be located upon the exercise of due diligence, (b) has been transferred to, sold to, or deposited with a third person, (c) has been placed beyond the jurisdiction of the Court, (d) has been substantially diminished in value, or (e) has been commingled with other property that cannot be subdivided without difficulty; it is

the intent of the United States to seek forfeiture of any other property of the defendants, up to the value described above, as subject to forfeiture under Title 21, United States Code, Section 853(p) as provided for under Title 18, United States Code, Section 982(b) (1) .

C. The property subject to forfeiture under paragraphs A and B, includes but is not limited to the following:

1. A monetary judgement of not less than \$2,500,000.00.
2. Real Property located at 124 Colonels Way, Williamsburg, Virginia 23185;
3. The contents of Bank of America Account 004126395527 in the name of Roy F. Overton, Jr;
4. 2003 Mercury Grand Marquis, VIN 2MEFM74W93X672472;
5. 2003 Nissan Xterra XE-V6 VIN 5N1ED28T13C684981; and
6. 2004 Honda Odyssey-EX VIN 5FNRL18644B010857.

A TRUE BILL:

Foreperson

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